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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,190

12/20/2006

Pablo Vicente Escriba Ruiz

U 016243-8

7142

140

7590

11/18/2009

LADAS & PARRY LLP  
26 WEST 61ST STREET  
NEW YORK, NY 10023

EXAMINER

HENLEY III, RAYMOND J

ART UNIT

PAPER NUMBER

1614

NOTIFICATION DATE

DELIVERY MODE

11/18/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nyuspatactions@ladas.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,190	<b>Applicant(s)</b> ESCRIBA RUIZ, PABLO VICENTE	
	<b>Examiner</b> Raymond J. Henley III	<b>Art Unit</b> 1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-19 is/are pending in the application.
- 4a) Of the above claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10575190	12/20/06	ESCRIBA RUIZ, PABLO VICENTE	U 016243-8

LADAS & PARRY LLP  
26 WEST 61ST STREET  
NEW YORK, NY 10023

**EXAMINER**

Raymond J. Henley III

**ART UNIT****PAPER**

1614

20091113

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

**NOTICE OF NON-RESPONSIVE AMENDMENT**

Applicant's amendment filed September 18, 2009 has been received and entered into the application. Accordingly, claims 1-8 have been cancelled and claims 9-19 have been added.

**ELECTION BY ORIGINAL PRESENTATION**

Applicants have added new claims 9-19 and cancelled original claim 1-8, which were directed to uses for several purposes. None of newly presently claims directed mirror the originally present claims, and thus cannot be examined.

Newly submitted claims 9-19, are thus directed to an invention that is independent or distinct from the invention originally claimed, (see previous Office action for the Examiner's interpretation of the claims).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 9-19, all claims pending, are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicants are provided one (1) month to respond to the present Office action by presenting method-type claims which are consistent with those already presented. Insofar as the previous claims were "USE" claims, and thus non-statutory, the statements in the claims as to an intended use were not given patentable weight. Should Applicants respond to this communication by adding method claims directed to patentably distinct therapeutic objectives, consideration by the Examiner will be given in determining if a restriction requirement is proper. In order to expedite prosecution, Applicants are urged to present method claims directed to a single type of therapeutic objective.

/Raymond J Henley III/  
Primary Examiner  
Art Unit: 1614